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JAMES H. McKENNEY,
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No. 188.

Statute filed by appellee.

IN THE

Supreme Court of the United States.

OCTOBER TERM, 1897.

No. 188.

HENRY W. BENJAMIN, APPELLANT,

vs.

THE CITY OF NEW ORLEANS.

ACTS OF LOUISIANA, 1868.

* * * * * *

No. 74.

AN ACT to establish a Metropolitan police district and to provide for the government thereof.

SECTION 1. *Be it enacted by the senate and house of representatives of the State of Louisiana in General Assembly convened*, That the parishes of Orleans, Jefferson and St. Bernard are hereby constituted and territorially united for the purposes of police government and police discipline therein, into one district, which shall be known and called "the Metropolitan police district of New Orleans, State of Louisiana."

SEC. 2. *Be it further enacted, etc.*, That the powers and duties connected with and incident to the police government and discipline of the said district shall be as hereinafter more especially provided for, vested in, and exercised by a board, consisting of five commissioners, one to be a resident of the city of Jefferson, to be styled the board of Metropolitan police, and by a Metropolitan police force composed of a superintendent of Metropolitan police force, surgeons of Metropolitan police force, captains of Metropolitan police force, sergeants of Metropolitan police force, corporals of Metropolitan police force, patrolmen of Metropolitan police force, clerks and doormen of Metropolitan police force.

SEC. 3. *Be it further enacted, etc.*, That the said commissioners of Metropolitan police shall be appointed by the governor of the State of Louisiana, with the advice and consent of the senate, and shall hold and occupy the said offices of commissioners for the term of office of the governor who may appoint them; *Provided*, That the commissioners so appointed shall continue to hold office until their successors shall have been duly appointed and qualified. Not less than three of the said commissioners shall constitute a quorum (but either of the said commissioners may, at any time, be removed by the governor of the State), under the provisions of the statutes relating to the removal from office, which provisions are hereby extended so as to relate to each one of the said commissioners; and in all cases where charges are made against a commissioner, he shall have an opportunity to present evidence in his behalf.

SEC. 4. *Be it further enacted, etc.*, That if any one of the said commissioners of the Metropolitan police, or any member of the police force shall, during his term of office, accept or hold any other place of public trust or civil emolument, or shall, during his term of office, be publicly nominated for any office elective by the people, and if he shall not, within ten days succeeding the same, publicly decline the said nom-

ination, he shall be deemed thereby as having resigned his commission, and be compelled to vacate his office.

SEC. 5. *Be it further enacted, etc.*, That the said Metropolitan police force shall consist of not more than one (1) superintendent or less than two (2) police surgeons, six (6) captains, twenty-four (24) sergeants, — corporals, twenty-four (24) clerks (operators), five hundred and seventy-five (575) patrolmen and forty-four (44) doormen, a superintendent and assistant superintendent of police telegraph.

SEC. 6. *Be it further enacted, etc.*, That the persons severally appointed commissioners of Metropolitan police by virtue of this act shall before exercising any of the duties thereof duly take and file in the office of the secretary of state the oath of office and affidavit of eligibility prescribed for State officers. Immediately upon receiving said oath of office the secretary of state shall issue to each commissioner a certificate of his appointment, whereupon he shall possess the power and exercise the duties of commissioner of Metropolitan police.

SEC. 7. *Be it further enacted, etc.*, That the said board of commissioners shall appoint the superintendent, the police surgeons, the captains, the sergeants, the corporals, the patrolmen, the clerks and the doormen of the said Metropolitan police force, to the number authorized by this act; and the said board of commissioners shall promulgate all rules, regulations and orders to the police force through the superintendent of police, who shall be the executive head of the whole force of the Metropolitan district, and who shall have direction of the said police force, subject to the rules, regulations and orders of the said board of commissioners.

SEC. 8. *Be it further enacted, etc.*, That each officer and member of said Metropolitan police force shall hold office respectively during good behavior, and shall be liable to removal from office or membership of the said police force only after written charges shall have been preferred against him, according to the rules and regulations of the board of

commissioners; but no person shall ever be appointed to office or membership of the said police force who is not a citizen of the United States and of this State, or whoever has been convicted of crime, or who is disqualified by the fourteenth article of the Constitution of the United States, or by the terms of article ninety-nine of the constitution of this State.

SEC. 9. *Be it further enacted, etc.*, That those portions of the Metropolitan police district which contribute to the police fund, and authorize the appointment of patrolmen, shall be divided by the board of Metropolitan police into precincts, not exceeding in the aggregate one precinct to each one hundred of the patrolmen authorized to be appointed. The same board may appoint as many captains as precincts, and assign one captain and as many sergeants, corporals and patrolmen as they shall deem sufficient to each precinct. Any number of said precincts may be joined into a subdistrict by the said board, and assigned to the charge of a police surgeon of police force.

SEC. 10. *Be it further enacted, etc.*, That the board of Metropolitan police shall provide such office and business accommodations as it shall deem requisite for the transaction of its own business and that of its subordinate officers, subject to approval by the auditor of public accounts and treasurer of the State. There shall be a central office in the city of New Orleans, to be known as the "Central department of Metropolitan police."

SEC. 11. *Be it further enacted, etc.*, That vacancies in the police force shall be filled up as follows: Captains must be appointed from among sergeants, and sergeants from corporals, and corporals must be appointed from among patrolmen.

SEC. 12. *Be it further enacted, etc.*, That the board of Metropolitan police may, upon any emergency or apprehension of riot, tumult, mob, insurrection, pestilence or invasion, appoint as many special policemen (without pay) from

among the citizens as it may be deemed proper. During any day of public election it may also appoint to perform duty (in the Metropolitan district) not exceeding five hundred special policemen, who may be paid out of the Metropolitan district fund; three dollars per day will be considered a recompense for such service as policemen; *Provided*, That each special policeman so appointed shall make oath before any commissioner of police, at the time of appointment, that he will not interfere in any manner with the election taking place during the day or days for which he is appointed otherwise than by depositing his own vote, and providing that such pay may be withheld and he may be duly prosecuted as for a misdemeanor if the terms of such oath be violated. And during the service of any such special policeman, authorized as aforesaid, he shall possess all the powers and privileges and perform all the duties, that may be, by order and regulations, from time to time prescribed. Every such special policeman shall wear a badge to be prescribed and furnished by the board of Metropolitan police force.

SEC. 13. *Be it further enacted, etc.*, That no person or persons shall be eligible to or competent to hold the office of commissioner of Metropolitan police except he be a citizen of the district of Metropolitan police and a resident therein.

SEC. 14. *Be it further enacted, etc.*, That the lieutenant governor of the State shall be *ex officio* a member and president of the board of Metropolitan police. He shall preside at the meetings of the board, and whenever a vacancy shall occur in the office of superintendent of Metropolitan police force, and in the absence or disability of the said superintendent, the president shall possess all the powers and perform all the duties of that office, subject to the orders, rules, and regulations of the board of Metropolitan police. And his pay shall be at the same rate as the superintendent during such continuance of duty.

SEC. 15. *Be it further enacted, etc.*, That the members of

the police force of the said "The Metropolitan police district" shall furthermore possess in every part of this State all the common-law power now conferred by law upon constables, except for the services of civil process, and any warrant for search or arrest issued by any magistrate of this State, may be executed in any part thereof by any member of the said "The Metropolitan police district," and all laws and parts of laws conflicting with this provision are hereby repealed.

SEC. 16. *Be it further enacted, etc.*, That the commissioners shall select one of their number to be the treasurer of the Metropolitan police. He shall be the fiscal officer of the Metropolitan district. He shall, on check and voucher, duly disburse, by order of the said police board, for the purpose of this act, all moneys belonging to the Metropolitan police fund, and shall deposit the same when paid to him by the treasurer of the State of Louisiana, in a bank or banks designated by such officer. He shall execute a bond with sureties not less than two conditioned in a penalty of forty thousand dollars to the people of the State of Louisiana for the faithful discharge of his duties as such treasurer; and the said bond shall be approved and filed with the auditor of the State of Louisiana before said treasurer shall enter upon the discharge of his duties. And any collections made on the forfeiture of such bond shall be paid to the credit of the Metropolitan police fund.

SEC. 17. *Be it further enacted, etc.*, That every member of the Metropolitan police force shall have issued to him by the board of Metropolitan police a proper warrant of appointment, signed by the president of the board and chief clerk or deputy clerk, which warrant shall contain the date of his appointment and rank.

SEC. 18. *Be it further enacted, etc.*, That the board of Metropolitan police shall make suitable provisions respecting security to be given by the officers and others under their control. Each member of the Metropolitan police force

shall take oath of office and subscribe to the same before a member of the board.

SEC. 19. *Be it further enacted, etc.*, That the said board of commissioners shall have power in its discretion, on conviction of an officer or member of said police force, for any legal offense or neglect of duty or violation of rules or disobedience of orders, or incapacity, or absence without leave, or any conduct injurious to the public peace or welfare, or immoral conduct, or conduct unbecoming an officer, or other breach of discipline, to punish the offending party by reprimand, forfeiture or suspension of pay for a specified time, or by dismissal from the force, but not more than ten (10) days' pay shall be forfeited and withheld for any offense. A record of all fines shall be kept by the treasurer of the board.

SEC. 20. *Be it further enacted, etc.*, That no officer or member of the Metropolitan police force, under penalty of forfeiting the salary that may be due him, shall withdraw or resign, except by permission of the board. Unexplained absence without leave for two (2) days shall be deemed and held to be a resignation by such officer or member and accepted as such.

SEC. 21. *Be it further enacted, etc.*, That the said board of commissioners shall have power to issue subpœnas, attested in the name of its president, to compel the attendance of witnesses upon any proceeding authorized by its rules and regulations. Each commissioner of the board, the superintendent of police, the chief clerk and deputy clerk, are hereby authorized and empowered to administer oaths and affirmations to any person summoned and appearing in any matter or proceeding authorized as aforesaid, or to take any depositions necessary to be made, under the orders, rules and regulations of the board, or for the purposes of this act. Any willful and corrupt false swearing by any witness or person to any material fact, in any necessary proceeding under the said orders, rules and regulations, or

under this act, shall be deemed willful perjury, and punished in the manner now prescribed by law for such offense.

SEC. 22. *Be it further enacted, etc.*, That the said board of Metropolitan police commissioners is hereby invested with and shall hereafter exercise all the powers now conferred by law upon mayors of cities, in respect to requiring the services of the military in aid of the civil authorities to quell riots, suppress insurrection, protect property and preserve public tranquillity; and such investure of power shall exclude that of the mayors of the cities of New Orleans, Jefferson City and Carrollton, within these cities respectively, and such powers shall apply to the whole Metropolitan police district.

SEC. 23. *Be it further enacted, etc.*, That the said board of commissioners, in furtherance of the police government of the said Metropolitan district, and for promoting and perfecting the police discipline of officers and subordinates of the police force, are empowered in their discretion to enact, modify and repeal, from time to time, orders, rules and regulations of general discipline wherein, in addition to such general provisions as may be deemed expedient by the said commissioners, there may be particularly defined, enumerated and distributed the powers and duties and liabilities of the officers, clerks and members of the Metropolitan police force, and wherein shall be declared the modes of appointments to office and procedure of removal from office of the said officers, clerks and members of the said police force, and the whole manner of discipline of the said force: *Provided*, That such by-laws, ordinances, orders, rules and regulations and forms of and modes of procedure shall not conflict with any of the provisions of this act or with the Constitution of the United States or of this State.

SEC. 24. *Be it further enacted, etc.*, That the board of commissioners shall cause to be kept books of record of the police force; of complaints against officers and members, and the judgments of the board thereupon; of time lost by

officers and members; of accounts showing the amount of moneys received and expended, and how and for what purposes received and expended; of the proceedings of the board; of stolen money and property recovered, and the disposition made of the same; of suspected persons and places; of arrests and causes of arrests, and all such other books and records in and for the central office, and in and for the several police offices and stations as shall be required by the business of the department. The board shall also have the power from time to time to establish stations and station-houses and substations and substation-houses for the accommodation thereat of the members of the force, and as may be necessary to the efficient working of the department.

SEC. 25. *Be it further enacted, etc.*, That the superintendent of the Metropolitan police force shall make to the board of commissioners quarterly reports in writing of the state of the department, with such statistics and suggestions as he may deem advisable to submit for the improvement of the police government and discipline of the said Metropolitan district.

The board of commissioners shall, on or before the first Monday in January of each year, make a report in writing to the governor of the State upon the condition of the said Metropolitan police force and the said Metropolitan police district.

SEC. 26. *Be it further enacted, etc.*, That it shall be a misdemeanor, punishable by imprisonment in the State penitentiary for a term not exceeding two years, or by a fine not exceeding five hundred dollars ($500) for any person, without justifiable or excusable cause, to use or to incite any person to use personal violence upon any of the commissioners, officers or members of the Metropolitan police force when in the discharge of their duties, or for any person to make use of abusive or threatening language to any of the said commissioners, officers or members of the said police force, or for any person not an officer or a member of said police

force to falsely represent himself, with a fraudulent design upon persons or property as being such an officer or member or upon any time or day to have, use, wear or display, without authority, any shield, badge, buttons, numbers, or other insignia or emblem such as are officially worn by the officers and members of the Metropolitan police force.

SEC. 27. *Be it further enacted, etc.*, That the board of commissioners, convened as a board of estimate and apportionment, shall on the first Monday after their appointment and annually thereafter proceed to make up a financial estimate of the sums required annually for expenses in the execution of criminal process, supplying for the fitting up, lighting, cleansing, repairing, furnishing of police offices and stations, lockups, houses of detention, for alterations in, addition to and repairs of same, for office fixtures and accommodation, advertising, printing and stationery, police badges, numbers and clubs, beds and bedding for the police force, and for witnesses and prisoners, for support of witnesses and prisoners while in the custody of the police, for secret police service, hack and cab hire, and also for all sums necessary for counsel fees, law expenses and disbursements by the board of commissioners, or rendered necessary in criminal or civil actions and proceedings against the said commissioners or officers or members of the force for acts done in the discharge of duty, or by color of office and also for the salaries and pay required by this act, and such other general and contingent expenses as may from time to time in the judgment of such board of estimate and apportionment, become necessary or proper, with the enumeration thereof. Such estimate shall be accompanied with a written apportionment by said board, of the proportion of expenses applicable to each of the cities and parishes in the Metropolitan district, in ratio of the number of police officers and men authorized by this act, and employed by such cities and parishes respectively. The said estimate and apportionment shall be submitted to the mayors of the cities

and police juries of the parishes within the said Metropolitan district to consider the same, and if the said mayors or police juries shall object in writing to such estimate and apportionment, or to any portion thereof, and so notify, or cause to be notified the said board of commissioners, it shall be the duty of the latter to carefully revise the same and consider the said objection; but if such board shall adhere to their original action of estimate and apportionment or if they shall modify the same, then their action shall be final and shall be binding upon the respective cities and towns interested therein.

SEC. 28. *Be it further enacted, etc.*, That the said board of commissioners shall make a correct estimate and apportionment for each of the cities and parishes within the Metropolitan district, of the number of police officers and stations, of lockups, houses of detention, beds and benning, fixtures, furniture, and all other necessary equipments and accommodations required for the efficient working of the department in such cities and parishes respectively, and it is hereby declared to be the duty of the mayors and common councils of such cities, and of the police juries of such towns, to provide for the foregoing enumerated police offices, stations, lockups, houses of detention, beds, bedding, furniture, fixtures, equipments and accommodations, in accordance with and agreeably to the estimate and apportionment of the board of commissioners; and in case the said mayors, common councils, or police juries of said cities and parishes neglect or refuse, within ten days after having been thereto in writing notified by the said board to provide all the foregoing enumerated police offices, stations, lockups, houses of detention, furniture, fixtures, beds, bedding, equipments and accommodations, as required by the estimate and apportionment of the said board, then the said board of commissioners may make their own provisions by contract, leasing, hiring, purchasing and repairing, and such contracts, leases, and purchases as aforesaid shall be a proper charge and debt

against the said cities and parishes, the mayors, common councils and police juries of which so refused or neglected to make provision in manner and form as aforesaid; but the title to all real property purchased for the purpose aforesaid shall vest in the cities and parishes respectively which contributed the money to purchase the same.

SEC. 29. *Be it further enacted, etc.*, That the common councils of the cities of New Orleans, Jefferson City and Carrollton, and the police juries of the towns of Algiers and Gretna, and of the parishes of Orleans, Jefferson and St. Bernard are hereby respectively empowered and directed annually to order and cause to be raised and collected by the tax upon the estates, real and personal subject to taxation according to law, within the said cities and towns, the sums of money as aforesaid, annually estimated and apportioned as the share of such cities or parishes of the said total expenses of the Metropolitan police district.

SEC. 30. *Be it further enacted, etc.*, That the State treasurer shall receive the sums estimated and apportioned to the said cities and parishes of the Metropolitan district from or through the treasurers of said cities and parishes respectively and give proper receipts for such sums as he may receive. All moneys paid out of the Metropolitan police fund shall be so paid out on a warrant signed by the president and any two other members of the board, attested by the chief clerk.

SEC. 31. *Be it further enacted, etc.*, That it shall be the duty of the board of Metropolitan police, if in their judgment advisable, to set apart a Metropolitan sanitary police company, and appoint a captain and sergeants not exceeding four of said company and to assign to said company such special powers and duties by the orders, rules and regulations as may be publicly advantageous.

SEC. 32. *Be it further enacted, etc.*, That the Metropolitan sanitary company is hereby empowered, under such distribution of power and duty as may be made by the rules and egulations, to visit and make inspection of all ferry-boats,

manufactories, slaughter-houses, tenement-houses, hotels and boarding-houses, and edifices suspected of or charged with being unsafe, and to take all necessary legal measures for promoting the public peace, security of life or health upon or in said boats, manufactories, houses and edifices, and to make report of inspection in the premises to the board of Metropolitan police. Whenever said board shall be satisfied by such report that any ferry-boat, manufactory, slaughter-house, tenement-house or edifice is maintained in a manner prejudicial to the lives or health of the public, it shall cause complaint to be made, founded on such report, before any court of competent jurisdiction of such city or parish where such ferry-boat, manufactory, slaughter-house, tenement-house or edifice is maintained, which shall upon such complaint, made under oath, issue its proper warrant in the name of the people of the State of Louisiana for the arrest of the person in charge of the ferry-boat, manufactory, slaughter-house, tenement-house or edifice to be brought before such court, and the complaint to be duly investigated, according to the laws of examination into such misdemeanors. If said court shall be satisfied, on a summary hearing thereof, that such charge is founded on reasonable and probable cause, he may, by his order in writing, command any such ferry-boat to cease running, and such edifice to be closed, or any business in such manufactory or slaughter-house to cease, until the cause of complaint aforesaid, if found to be well founded, shall be removed to the satisfaction of the board of Metropolitan police. Whereupon it shall be the duty of the police to enforce the order of such court.

SEC. 33. *Be it further enacted, etc.*, That whenever the captain of the sanitary company shall report to the board of police that any premises or any part of any premises in any precinct is in a filthy condition, or in a condition dangerous to health, the board may cause notice to be given to the owner thereof, or his agent in charge of the property, or the

occupant thereof, to cleanse the same within three days. If the premises are not cleansed at the expiration of the said three days, the board of police may order and employ any person to cleanse the same, whereupon the person so ordered shall have power to enter upon and cleanse said premises, and the person so cleansing the premises, in pursuance of the said order, shall maintain an action against the owner of the premises so cleansed, for the services so rendered, and expense incurred in such cleansing, in the same court, in the same manner and with like effect as if the owner of said premises had himself employed the said person to cleanse the said premises.

SEC. 34. *Be it further enacted, etc.*, That the board of police for meritorious and extraordinary services rendered by any member of the police force in the due discharge of his duty, may permit any member of the police force to retain for his own benefit any reward or present tendered him therefor; and it shall be cause of removal from the Metropolitan police for any member thereof to receive any such reward or present without notice thereof to the board of Metropolitan police.

SEC. 35. *Be it further enacted, etc.*, That all fines imposed by the board of police upon members of the Metropolitan police force by way of discipline, and collectible from pay or salary, and all rewards, fees, proceeds of gifts and emoluments that may be paid and given for account of extraordinary services of any member of the Metropolitan police force, except when allowed to be retained by said member, and all moneys remaining for the space of one year in the hands of the property clerk, or arising from the sale of unclaimed goods, and all proceeds of suit for penalties under this amended act shall be deposited and paid into the bank wherein the treasurer of the board of Metropolitan police shall keep an account. The payments so made shall constitute and be deposited, and kept as a fund to be called the "Metropolitan police fund," and the persons who shall

from time to time fill the office of the said treasurer of the board of Metropolitan police and that of treasurer of the city of New Orleans, are hereby declared the trustees of the said fund, and may from time to time invest the same, in whole or in part, as they shall deem most advantageous for the objects of such fund, and are empowered to make all necessary contracts, and take all necessary remedies in the premises.

SEC. 36. *Be it further enacted, etc.*, That if any member of the Metropolitan police force whilst in the actual performance of duty shall become permanently disabled, so as to render his dismissal from membership proper, or if any such member shall become superannuated after ten years of membership, a sum of not exceeding one hundred and fifty dollars as an annuity to be paid such member, shall become chargeable upon the Metropolitan police fund. If any member of the Metropolitan police force, whilst in the actual discharge of his duty shall be killed, or shall die from the immediate effect of any injury received by him whilst in such discharge of duty, or shall die after ten years' service in the force, and shall leave a widow, and if no widow, any child or children under the age of sixteen years, a like sum by way of annuity shall become chargeable upon said fund to be paid to such widow so long only as she remains unmarried, or to such child or children so long as said child, or the youngest of said children continues under the age of sixteen years. In every case the board of Metropolitan police shall determine the circumstances thereof, and order payment of the annuity to be made by draft, signed by each trustee of the said fund. But nothing herein contained shall render any payment of said annuity obligatory upon said board of trustees, or chargeable as a matter of legal right. The board of Metropolitan police, in its discretion may, at any time, order such annuity to cease.

SEC. 37. *Be it further enacted, etc.*, That whenever property or money shall be taken from persons arrested and shall be

alleged to have been feloniously obtained, or to be the proceeds of crime, and whenever so brought, with such claimant and the person arrested before some court of competent jurisdiction for adjudication, and the court shall be then and there satisfied from evidence that the person arrested is innocent of the offence alleged, and that the property rightfully belongs to him, then said court shall thereupon, in writing, order such property or money to be returned; and the property clerk, if he have it, to deliver such property or money to the accused person himself, and not to any attorney, agent or clerk of such accused person.

SEC. 38. *Be it further enacted, etc.*, That if any claim to the ownership of such property or money shall be made on oath before such court, by or in behalf of any other persons than the persons arrested, and the said accused person shall be held for trial or examination, such property or money shall remain in the custody of the property clerk until the discharge or conviction of the persons accused.

SEC. 39. *Be it further enacted, etc.*, That all property and money that shall remain in the custody of the property clerk for the period of six months without any lawful claimant thereto, after having been three times advertised in public newspapers, shall be sold at public auction and the proceeds of such sale shall be paid into the Metropolitan police fund.

SEC. 40. *Be it further enacted, etc.*, That if any money or property placed in the custody of the property clerk shall be desired as evidence in any police or other criminal court, such property shall be delivered to any officer who shall present an order to that effect from such court. Such property, however, shall not be retained in said court, but shall be returned to said property clerk to be disposed of according to the previous provisions of this act.

SEC. 41. *Be it further enacted, etc.*, That it is hereby made the duty of the Metropolitan police force, at all times of day and night, within the Metropolitan district, and the officers

and members of such force are hereby thereunto empowered to especially preserve the public peace, prevent crime, detect and arrest offenders, suppress riots, mobs and insurrections, disperse unlawful and dangerous assemblages, and assemblages which obstruct the free passage of public streets, sidewalks, parks and places, protect the right of person and property, guard the public health, preserve order at elections and at all public meetings, assemblages, theatres and all places of public amusement and resort, prevent and regulate the movement of teams and vehicles in the streets and roads, remove all nuisances in the public streets, parks and highways, arrest all street mendicants and beggars, and all dangerous and suspicious characters, loafers and pimps, provide proper police attendance at fires, assist, advise and protect emigrants, strangers and travelers in public streets, at steamboat and ship landings and railroad depots, carefully observe and inspect all places of public resort and amusement, all houses of ill fame or prostitution, and houses where prostitutes resort or reside, all lottery or policy stands and shops, all gambling-houses, cock-pits, dog-pits, rat-pits, all common dance-houses and ball-rooms, and to repress and restrain all unlawful or disorderly conduct or practices therein, enforce and prevent the violation of all laws and ordinances in force in said district; and for these purposes, with or without warrant, to arrest all persons guilty of violating any law or ordinance for the suppression or punishment of crimes and offenses.

SEC. 42. *Be it further enacted, etc.*, That the several officers and members of the Metropolitan police force shall have power and authority to immediately arrest and take into custody, without warrant, any person who shall commit, or threaten to commit, or attempt to commit, in the presence of said officer or member, or within his view, any breach of the peace or offence directly prohibited by act of the legislature, or by any ordinance of the cities within which the offense is committed, threatened, or attempted, but such

officer or member of the police force shall, under the penalty of ten days' fine or dismissal from the force, in the discretion of the board, convey in person such offender before a court of the city or parish where the arrest is made, that he may be dealt with according to law. If the arrest is made during the hours that the court does not hold its regular session, or if the court is not in session, such offender shall be detained in a station-house or lockup until the next public sitting of the magistrate, and no longer, but he shall then be conveyed without delay before the court to be dealt with according to law.

SEC. 43. *Be it further enacted, etc.*, That the board of police shall possess powers of general police supervision and inspection, and may delegate the same to any member of the force over all licensed or unlicensed pawnbrokers, vendors, junk-shop keepers, junk-boatmen, cart, cab or hack men, dealers in second-hand merchandise, cotton pickeries, intelligence-office keepers and auctioneers within the said Metropolitan district; and in the exercise of and in the furtherance of said supervision, may from time to time empower members of the police force to fulfill such special duties in the aforesaid premises as they may from time to time ordain.

The said board of commissioners may by authority in writing, empower any member of the police force, whenever such member shall be in search of property feloniously obtained, or in search of suspected offenders, or evidence to convict any person charged with crime, to examine the books of any pawnbroker or his business premises, or the business premises of any licensed vendor, junk-shop keeper, or dealer in second-hand merchandise, or intelligence office, cotton pickery, junk-boat, or auctioneer. Any such member of the said police force, when thereunto authorized in writing by the said board of commissioners, shall be authorized to examine property alleged to be pawned, pledged, deposited, lost or stolen, in whosoever possession said property

may be, but no such property shall be taken from the possessor thereof without due process or authority of law.

Any willful interference with any members of the board of commissioners, the superintendent, or with any member of the police force by any of the persons hereinbefore named in this section, while in official discharge of duty, shall be punished as a misdemeanor.

SEC. 44. *Be it further enacted, etc.*, That if any member of the Metropolitan police force, or if any two or more householders shall report in writing, under his or her signature, to the board of commissioners or any member thereof, that there are good grounds (and stating the same) for believing any houses, rooms, or premises within the said Metropolitan district to be kept or used as a common gaming-house, common gaming-room, or common gaming premises, for therein playing for wages of money at any game of chance, to be kept or used for lewd and obscene purposes and amusements, it shall be lawful for the board of commissioners to authorize in writing, any member or members of the police force, to enter the same, who may forthwith arrest all persons there found offending against the law, but none others, and seize all implements of gaming and convey any person so arrested before a court of competent jurisdiction, and bring the articles so seized to the office of the board of commissioners. It shall be the duty of the board of commissioners to cause such arrested persons to be vigorously prosecuted; and such articles seized to be destroyed as the orders, rules and regulations of the board of commissioners shall direct.

SEC. 45. *Be it further enacted, etc.*, That in the performance of police service in any precinct or precincts composed of waters, and in lieu of station-houses, the board of commissioners may procure and use and employ such rowboats and steamboats as shall be deemed necessary and proper.

In suburban or sparsely inhabited precincts they may establish a mounted patrol, and procure, and use and employ so many horses and equipments as shall be requisite for the

purpose; and they may procure and cause to be used any teams and vehicles required to transport prisoners, supplies and property whenever it shall be proper and economical to do so; and may sell and dispose of any personal property owned or used in the department, whenever it shall have become old and unfit, or not required for service; such sales to be made at public auction, and the proceeds thereof to be paid into the Metropolitan police fund.

SEC. 46. *Be it further enacted, etc.*, That the officers and members of the Metropolitan police force of the said Metropolitan district shall furthermore possess in every part of this State all power now conferred by law upon constables, except for the service of civil process, and any warrant for search or arrest issued by any magistrate of this State may be executed in any part thereof by any member of the police force of the said Metropolitan district.

SEC. 47. *Be it further enacted, etc.*, That the board of commissioners shall have authority to offer rewards to induce all classes of persons to give information which shall lead to the detection, arrest and conviction of persons guilty of homicides, arsons, or receiving stolen goods, knowing them to be stolen, and to pay such rewards to such persons as shall give such information. Such rewards shall be paid from the Metropolitan police fund from warrants on the treasurer of the State, drawn in the manner hereinbefore provided for other purposes.

SEC. 48. *Be it further enacted, etc.*, That in every case of arrest by any member of the Metropolitan police force, the same shall be made known immediately to his superior upon duty in the precinct wherein the arrest was made by the person making the same; and it shall be the duty of the said superior, within twenty-four hours after such notice, to make written returns thereof, according to the rules and regulations of the board of commissioners, with the name of the party arrested, the alleged offense, the time and place of arrest, and the place of detention.

SEC. 49. *Be it further enacted, etc.*, That every officer and member of the Metropolitan police force shall have issued to him by the board of commissioners, a proper warrant of appointment, signed by the president and secretary of the said board, which warrant shall contain the date of his appointment and his rank.

SEC. 50. *Be it further enacted, etc.*, That the salaries and compensation of police commissioners and other officers and employés of the board of Metropolitan police shall, from the time of their appointment, be as follows:

President of the board, two thousand five hundred dollars ($2,500).

Treasurer of the board, two thousand five hundred dollars ($2,500).

Other commissioners, each two thousand dollars ($2,000).

Superintendent, three thousand dollars ($3,000).

Chief clerk, two thousand dollars ($2,000).

Deputy clerk, one thousand six hundred dollars ($1,600).

Property clerk, one thousand two hundred dollars ($1,200).

Other clerks, one thousand two hundred dollars ($1,200).

Police surgeons, one thousand six hundred dollars ($1,600).

Captains, one thousand eight hundred dollars ($1,800).

Sergeants, one thousand five hundred dollars ($1,500).

Corporals, one thousand one hundred dollars ($1,100).

Detectives, one thousand four hundred dollars ($1,400).

Patrolmen, one thousand dollars ($1,000).

Doormen, eight hundred dollars ($800).

The salaries and pay aforesaid shall be paid monthly to each person entitled thereto, in modes to be prescribed by the rules and regulations, subject to such deductions each month from the salaries or pay of each member of the Metropolitan police force as the treasurer shall make (and which deduction he is hereby authorized to retain) to satisfy fines imposed on any member of the Metropolitan police force by way of discipline or punishment, as prescribed by the rules and regulations of the board. The salaries of the

commissioners shall be paid by the treasurer of State out of the Metropolitan police fund.

SEC. 51. *Be it further enacted, etc.*, That the board of commissioners shall, at all times, cause the ordinances of the cities of New Orleans, Jefferson City and Carrollton, and of the towns of Algiers and Gretna, and the ordinances of the parishes of Orleans, Jefferson and St. Bernard, not in conflict with the provisions of this act, to be properly enforced; and it shall be the duty of the said board at all times whenever consistent with the rules and regulations of the board, and with the requirements of this act, to furnish all information desired by the mayors, common council and other authorities of said cities and towns.

SEC. 52. *Be it further enacted, etc.*, That the said board of commissioners are hereby furthermore authorized and empowered to erect, operate and maintain, under the general laws of the State relating to telegraph lines, all such lines of telegraph in such places within the said Metropolitan police district as for the purposes of police and fire the board shall deem necessary; and to employ all such telegraph operators, batterymen and linemen as may be required for, and may be necessary to the proper and efficient working of the said police and fire-alarm telegraph. But the ownership of the fixtures, instruments and apparatus for such telegraph purposes in the cities of New Orleans, Jefferson City, Carrollton and the towns of Algiers and Gretna, and the parishes of Orleans, Jefferson, and St. Bernard shall vest in the respective municipal corporations of the said cities and towns, but subject to the exclusive use and control, except for fires and fire purposes, of the said board of Metropolitan police commissioners.

SEC. 53. *Be it further enacted, etc.*, That the said board of commissioners shall appoint a superintendent and assistant superintendent of the police telegraph, the superintendent of fire-alarms and police telegraph shall appoint three telegraph operators, one lineman, one batteryman, subject in

all cases to the approval of the board of commissioners. The telegraph operators shall also act as clerks of police stations. The said board shall promulgate all orders, rules and regulations to the said telegraph corps through the superintendent, who shall be the executive head of the whole corps, and who shall have control and direction of the same subject to the rules, regulations and orders of the board of commissioners.

SEC. 54. *Be it further enacted, etc.*, That the salaries and compensations of the said police telegraph corps shall be as follows:

To a superintendent of fire-alarm and police telegraph two thousand five hundred dollars ($2,500) per annum.

To the assistant superintendent of fire-alarm and police telegraph one thousand eight hundred dollars ($1,800) per annum.

To the operators one thousand four hundred dollars ($1,400) per annum.

Linemen one thousand eight hundred dollars ($1,800) per annum.

Batterymen eight hundred dollars ($800).

The salaries and pay aforesaid shall be paid monthly to each person entitled thereto in modes to be prescribed by the rules and regulations of the board subject to such deduction for neglect of duty, violation of rules and regulations, etc., as may be adjudged and prescribed by the board.

SEC. 55. *Be it further enacted, etc.*, That there shall be appointed by the board of police commissioners two surgeons, who shall perform the duty now performed by the city physicians and such other duties as the commissioners may from time to time prescribe. The police surgeons shall also act as experts for the coroners, making post-mortem examinations whenever called upon by the coroners of the districts. The salary of these surgeons shall be two thousand five hundred dollars ($2,500) per annum.

SEC. 56. *Be it further enacted, etc.*, That all persons who

may be arrested under the provisions of this act shall be admitted to bail in the manner and by the court or officers now prescribed by law.

SEC. 57. *Be it further enacted, etc.*, That all laws or parts of laws conflicting with the provisions of this act, be and the same are hereby repealed, and that this act shall take effect from and after its passage.

(Signed) CHAS. W. LOWELL,
Speaker of the House of Representatives.

(Signed) OSCAR J. DUNN,
Lieutenant Governor and President of the Senate.

Approved September 14, 1868.

(Signed) H. C. WARMOTH,
Governor of the State of Louisiana.

A true copy.

GEO. E. BOVEE,
Secretary of State.